

Senate Bill No. 1604

CHAPTER 400

An act to amend the heading of Article 8.7 (commencing with Section 6047.60) of Chapter 9 of Part 1 of Division 4 of, and to amend Sections 6047.60, 6047.61, 6047.62, 6047.63, 6047.64, 6047.68, 6047.69, 6047.70, 6047.74, 6047.76, 6047.78, 6047.79, 6047.80, 6047.82, 6047.87, 6047.88, 6047.89, 6047.92, 6047.94, 6047.96, 6047.97, 6047.101, 6047.105, 6047.109, 6047.112, 6047.113, 6047.118, and 6047.124 of, and to repeal Sections 6047.77 and 6047.93 of, the Food and Agricultural Code, relating to pest control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 2004. Filed
with Secretary of State September 9, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1604, Ashburn. Pest control: Pierce's disease.

Existing law, the Table Grape Pest and Disease Control District Law, establishes a procedure for the organization, operation, and dissolution of districts to, among other things, respond to, manage, and control the effects of the spread of the glassy-winged sharpshooter and Pierce's disease, and other pests that attack grapevines.

Existing law requires that proceedings for the formation of a district within a county shall be commenced by a petition that is signed by specified percentages of table grape growers. Existing law authorizes the district to cause assessments to be levied on table grapes being grown in the district to pay obligations of the district incurred to accomplish the purposes of the district.

This bill would revise these provisions so that they apply to table grape growers as well as the owners of table grape acreage. This bill would clarify that these abatement districts apply to infestations of other designated pests and diseases in addition to the glassy-winged sharpshooter and Pierce's disease. This bill would instead authorize the district to recommend an assessment to the board of supervisors to be levied on the owners of acreage of table grapes being grown in the district. This bill would make other conforming changes.

This bill would declare that it is to take effect immediately as an urgency statute.



The people of the State of California do enact as follows:

SECTION 1. The heading of Article 8.7 (commencing with Section 6047.60) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code is amended to read:

Article 8.7. Table Grape Pest and Disease District

SEC. 1.5. Section 6047.60 of the Food and Agricultural Code is amended to read:

6047.60. The Legislature hereby finds and declares the following:

(a) California is the leading producer of table grapes in the United States, accounting for 97 percent of table grapes grown in this country.

(b) Table grapes are grown in 15 counties located throughout the state.

(c) California grows more than 170,000 acres of table grapes producing over 700,000 tons of table grapes per year, valued at more than eight hundred sixty million dollars (\$860,000,000) with a direct and indirect impact on the state's economy that totals more than four billion dollars (\$4,000,000,000).

(d) The plant killing bacterium, *Xylella fastidiosa*, and the resulting plant disease known as Pierce's disease, and its vectors, present a clear and present danger to California's nearly three billion dollar (\$3,000,000,000) grape industry, as well as to many other commodities and plant life.

(e) Pierce's disease and its vector the glassy-winged sharpshooter have spread into the southern San Joaquin Valley, which, if left unabated, places grapes and other commodities throughout California in immediate peril.

(f) In addition to the research funds and program provisions set forth in Article 8 (commencing with Section 6045) of Chapter 9 of Part 1 of Division 4, dealing with wine grapes, the table grape industry is at substantial risk for Pierce's disease and other pests and recognizes the need for additional specific control programs.

(g) Additional programs may include field treatments similar to, or the expansion of, the successful United States Department of Agriculture and California Department of Food and Agriculture General Beale area pilot program in Kern County. The expansion of those programs may require industry assessments from the table grape industry through the creation of a pest abatement district.

(h) The state has an interest in protecting its agricultural products from further destruction by the glassy-winged sharpshooter and Pierce's disease, and other designated pests and diseases.



(i) As a known vector for Pierce’s disease, the glassy-winged sharpshooter has been determined to carry and spread Pierce’s disease to many forms of California agriculture, usually with complete destruction to the infected crop. This destructive effect of the disease has been determined by experts in the viticulture field to be especially true with respect to infected table grapes. To avoid a potentially catastrophic loss to one of California’s most important industries, the Legislature declares that this article is in the interest of the public health and welfare.

(j) This article shall not establish a precedent for, or supercede, reduce, or in any way alter, government funding from any source related to Pierce’s disease and other designated pests and diseases in this state.

(k) The Legislature further declares that it is in the interest of the public health and welfare that the districts authorized to be created by this article not duplicate existing services already being provided by the University of California, state, counties, or the county agricultural commissioners to eradicate the glassy-winged sharpshooter and Pierce’s disease, and other designated pests and diseases.

SEC. 2. Section 6047.61 of the Food and Agricultural Code is amended to read:

6047.61. This article shall be known and may be cited as the Table Grape Pest and Disease District Law.

SEC. 2.5. Section 6047.62 of the Food and Agricultural Code is amended to read:

6047.62. (a) It is the purpose of this article to make available a procedure for the organization, operation, and dissolution of districts to respond to the effects of the spread of the glassy-winged sharpshooter and Pierce’s disease, and other designated pests and diseases that attack table grape plants, and to collect and disseminate to table grape producers in the district all relevant information and scientific studies concerning the pest or pests, as well as to chart and determine the extent and location of any infestations.

(b) Division 3 (commencing with Section 56000) of Title 5 of the Government Code does not apply to districts organized pursuant to this article.

SEC. 3. Section 6047.63 of the Food and Agricultural Code is amended to read:

6047.63. Unless the context otherwise requires, the definitions in this section govern the construction of this article.

(a) “Board” or “board of directors” means the board of directors of a district.

(b) “District” means a table grape pest district organized pursuant to this article.



(c) “Owner” includes joint owner, coowner, guardian, executor, administrator, or any other person that holds property in a trust capacity under court appointment.

(d) “Pierce’s disease” is the disease of grapevines caused by the bacterium *Xylella fastidiosa*.

(e) “Table grapes” means all table grape varieties specified in the report issued pursuant to Section 55601.5. “Table grapes” also means all raisin varieties specified in the report issued pursuant to Section 55601.5 that are intended to be marketed in their fresh form.

(f) “Table grape acreage” means any parcel of real property with more than one acre of table grape plants.

(g) “Grower” or “producer” means any person who is engaged within this state in the business of producing, or causing to be produced, table grapes for market.

(h) “Other designated pests and diseases” means pests and diseases designated by the district as serious pests and diseases warranting district action.

SEC. 4. Section 6047.64 of the Food and Agricultural Code is amended to read:

6047.64. (a) Proceedings for the formation of a district within any county shall be commenced by a petition signed by the owners of 15 percent of the table grape acreage.

(b) The petition shall be addressed to, and filed with, the board of supervisors of the county.

SEC. 5. Section 6047.68 of the Food and Agricultural Code is amended to read:

6047.68. (a) The petition shall be accompanied by a fee in an amount established by the board of supervisors as is necessary to reimburse the county for all costs incurred by it in connection with the proposed organization of the district and subsequent election. The board of supervisors may charge the district for actual expenses incurred by the county in connection with the proceedings for the formation of the district.

(b) Upon the establishment of the district, the district shall reimburse those who provided the funds specified in subdivision (a) from assessments collected pursuant to this article.

SEC. 6. Section 6047.69 of the Food and Agricultural Code is amended to read:

6047.69. (a) Upon the presentation and filing of a petition, the board of supervisors shall refer the petition to the county agricultural commissioner for the preparation of a register of owners of table grape acreage within the proposed district, and for an investigation and report.



(b) The county agricultural commissioner shall create a register of all table grape acreage owners within the proposed district and specifically describe the net acreage of land devoted to the growing of table grapes by each owner. The county agricultural commissioner shall file with the register of table grape acreage owners a report to the board of supervisors describing the present condition of the glassy-winged sharpshooter and Pierce's disease infestations, or infestation of other designated pests and diseases, and any proposed program that may warrant the board of supervisors proceeding with the organization of the district and recommendation as to the advisability of creating the district.

SEC. 7. Section 6047.70 of the Food and Agricultural Code is amended to read:

6047.70. (a) The board of supervisors shall fix a time and place for a hearing of the petition.

(b) The hearing shall not be less than 20 days, or more than 40 days, after the filing of the petition with the board of supervisors.

(c) The board of supervisors shall order the clerk of the board of supervisors to give notice of the hearing that will do the following:

(1) State the time and place for the hearing that was fixed by the board of supervisors.

(2) State that at the hearing protests will be considered by the board of supervisors.

(3) State that requests in writing for the exclusion of acreage from, or the inclusion of acreage in, the proposed district, will be heard and considered by the board of supervisors.

(4) State that the petition is available for inspection at the office of the clerk of the board of supervisors.

(5) Designate the boundaries of the proposed district in substantially the same way that they are described in the petition.

SEC. 8. Section 6047.74 of the Food and Agricultural Code is amended to read:

6047.74. At the hearing, any owner of table grape acreage in the proposed district may present to the board of supervisors a request, in writing, for the exclusion of that acreage or any part of that acreage from the proposed district upon a showing that the acreage or part of that acreage will not be benefited by the activities of the proposed district. However, if the excluded acreage is planted with table grapes, the owner of the acreage shall inform the district, in writing, within 30 days of planting. Factors that the board of supervisors may consider in its determination for exclusion, as set forth in an affidavit from the owner of the acreage, shall include the following:



(a) That the acreage is not planted to table grapes and will not be so planted in the foreseeable future, as evidenced by an affidavit from the owner of the acreage so stating.

(b) That the table grape plants have been removed from the acreage and that no living table grape plants remain on the acreage.

(c) That exclusion of the acreage, or any part of the acreage, from the district will not present a risk of glassy-winged sharpshooter infestation or infestation by other designated pests or diseases because of the acreage's distance or isolation from infested geographical regions.

SEC. 9. Section 6047.76 of the Food and Agricultural Code is amended to read:

6047.76. (a) If the board of supervisors determines that the project is feasible and in the interest of the table grape acreage owners of the county, the board of supervisors shall, by order entered in its minutes, declare the district is duly organized under the name designated in the petition for the formation of the district.

(b) The order shall describe the territory included in the district and, if the board of supervisors does not exclude or include acreage pursuant to Section 6047.78, it is a sufficient description of the territory to describe the boundaries in substantially the same way as they are described in the petition.

(c) A copy of the order certified by the clerk of the board of supervisors shall be filed with the county recorder of the county in which the district is situated.

SEC. 9.5. Section 6047.77 of the Food and Agricultural Code is repealed.

SEC. 10. Section 6047.78 of the Food and Agricultural Code is amended to read:

6047.78. (a) In determining the boundaries of the district, the board of supervisors shall exclude from the district any table grape acreage that it finds will not be benefited by the proposed project, pursuant to the facts in Section 6047.74, and it may include in the district any acreage that it finds will be benefited if it also finds it will be in the interest of the district to include this acreage. The inclusion may be upon application of the owner or, without the owner's application, upon giving the owner notice of the proposed inclusion and an opportunity for a hearing on the inclusion.

(b) Notice of inclusion shall be mailed, postage prepaid, by the clerk of the board of supervisors, to the address of the owner of the acreage as shown by the last equalized county assessment roll, and to any person that has filed with the clerk that person's name and address and description of acreage in which he or she has either a legal or equitable interest. The notice shall describe the acreage proposed to be included,



and shall state the time and place at which objections to the inclusion will be heard.

(c) Any owner of table grape acreage outside of the proposed district may present to the board of supervisors a request in writing for inclusion of the acreage in the proposed district.

SEC. 11. Section 6047.79 of the Food and Agricultural Code is amended to read:

6047.79. Upon the filing of the order of organization, the board of supervisors shall appoint a board of directors of five members to administer the affairs of the district.

SEC. 12. Section 6047.80 of the Food and Agricultural Code is amended to read:

6047.80. To be a director of the district, a person shall be either an owner of, or the designee of an owner of, acreage included in the district that is devoted, in whole or in part, to the growing of table grapes.

SEC. 13. Section 6047.82 of the Food and Agricultural Code is amended to read:

6047.82. (a) From and after the filing for record of the order of the board of supervisors declaring the district organized, and the appointment and qualification of its first board of directors, the organization of the district is complete. The district shall operate for a period of five years from the date of its organization, and shall cease to exist after five years unless the district is reauthorized by the board of supervisors.

(b) The board of directors shall hold a public hearing six months prior to termination of its initial organization or last reauthorization to determine whether the conditions of the glassy-winged sharpshooter or Pierce's disease or other designated pests and diseases warrant the reauthorization of the district for an additional five years.

(c) The notice of hearing shall state the name of the district and that consideration is being given to reauthorizing the district for an additional five years, the boundaries of the district, and the time and place for the hearing. Notice of the hearing shall be given as provided in Sections 6047.71 and 6047.72. The board of directors shall submit the record of the hearing and its recommendation to the board of supervisors within 90 days of the hearing. The board of supervisors shall approve or reject the recommendation. If it rejects the recommendation, the board of supervisors shall return the report accompanied by its reasons for the rejection to the board of directors within 30 days of receipt. The board of directors may thereafter address the reasons for rejection by the board of supervisors and submit an amended report and new recommendations for reauthorization for approval or rejection by the board of supervisors, unless the district has ceased to exist pursuant to subdivision (a).



(d) If the board of supervisors approves the continuation of the district, the board of supervisors shall, by an order entered in its minutes, declare the district duly extended.

SEC. 14. Section 6047.87 of the Food and Agricultural Code is amended to read:

6047.87. (a) The district may do all of the following:

(1) Sue and be sued in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(2) Adopt a seal and alter it at pleasure.

(3) Accept contributions, and by grant, purchase, gift, devise, lease, or otherwise, and hold, use and enjoy, and lease, or otherwise dispose of, real and personal property of every kind and description within or without the district necessary to the full and convenient exercise of its powers.

(4) Recommend an assessment to the board of supervisors to be levied on the owners of acreage of table grapes being grown in the district to pay obligations of the district incurred to accomplish the purposes of the district as provided in this article, which may involve funding all or a portion of a Pierce's disease or glassy-winged sharpshooter program, or program involving other designated pests and diseases.

(5) Make contracts, and employ, except as otherwise provided in this article, all persons, firms, and corporations necessary to carry out the purposes and the powers of the district, and at any salary, wage, or other compensation as the board of directors shall determine.

(6) Respond to the effects of, the spread of glassy-winged sharpshooter and Pierce's disease, and other designated pests and diseases, and collect and disseminate to table grape growers and the owners of table grapes acreage in the district relevant information and scientific studies concerning these pests or diseases, as well as to chart and determine the extent and location of any infestations.

(7) Take all actions necessary to control, eradicate, remove, or prevent the spread of the glassy-winged sharpshooter or Pierce's disease, or other designated pests and diseases injurious to table grapes.

(8) With reasonable advance notice in writing to the landowner, as determined by the district, enter into or upon any land included within the boundaries of the district for the purpose of inspecting the grape plants and any other host plants and fruit growing on these lands.

(9) Eradicate, eliminate, remove, or destroy any table grape plants having evidence of Pierce's disease or other designated pests and diseases.

(10) Coordinate with the county agricultural commissioner as to his or her taking appropriate actions to have any table grape plants growing within the district infested with Pierce's disease or other designated pests



and diseases adjudged a public nuisance, and decreed that the nuisance be abated.

(11) Coordinate district activities with other table grape pest and disease districts established pursuant to this article and Section 6047.3.

(12) Perform any and all acts, either within or outside the district, necessary or proper to fully and completely carry out the purposes for which the district is organized.

(b) The district’s administrative costs shall be limited to 5 percent of the annual assessment revenue.

SEC. 15. Section 6047.88 of the Food and Agricultural Code is amended to read:

6047.88. Every district formed pursuant to this article has all of the powers prescribed by Section 6047.87 and other provisions of this article, regardless of any language in the petition for formation for any district or in any of the proceedings leading to the formation that would otherwise limit the power of the district.

SEC. 16. Section 6047.89 of the Food and Agricultural Code is amended to read:

6047.89. The county agricultural commissioner of the county in which the district is located shall, upon request of the board, assist the district to the extent possible in all activities undertaken by the district for the control of glassy-winged sharpshooter and Pierce’s disease or other designated pests and diseases.

SEC. 16.5. Section 6047.92 of the Food and Agricultural Code is amended to read:

6047.92. For each fiscal year subsequent to the first year of operation of the district, the board shall adopt the final budget in the same manner that the budget for the first fiscal year was adopted.

SEC. 17. Section 6047.93 of the Food and Agricultural Code is repealed.

SEC. 18. Section 6047.94 of the Food and Agricultural Code is amended to read:

6047.94. The district shall identify any parcel of real property with more than one acre of table grape plants that shall be subject to assessments.

SEC. 19. Section 6047.96 of the Food and Agricultural Code is amended to read:

6047.96. (a) After the district has been formed, an owner of table grape acreage in the district may present to the board a request in writing for the exclusion of that acreage or any part of the acreage from the district upon a showing that the acreage or part of the acreage will not be benefited by the activities of the district. Factors that the board may consider in its determination for exclusion, as set forth in an affidavit



from the owner of the acreage, shall include those specified in Section 6047.74.

(b) After receipt of the request, the board shall cause an investigation of the parcel of acreage to be made and, if the board determines that the acreage or part of the acreage will not be benefited by the activities of the district and that exclusion of the acreage will not present a pest risk to the district, the board shall exclude the table grape acreage from the district and immediately certify this fact to the county assessor and the county auditor or tax collector.

(c) Any owner of table grape acreage outside of, or otherwise not included in, the district may present to the board a request in writing for inclusion of the acreage in the district.

SEC. 20. Section 6047.97 of the Food and Agricultural Code is amended to read:

6047.97. (a) The board shall, on or before the first Monday in April of each year, or as soon thereafter as possible, file with the board of supervisors a budget that sets forth all estimated expenditures of the district for the fiscal year commencing on the first day of July. A copy of the budget shall also, at the same time, be filed with the auditor of the county.

(b) The board of supervisors may, by ordinance or by resolution, adopted after notice and a hearing, determine and levy an assessment for table grape pest and disease control activities or other activities specified in subdivision (a) of Section 6047.87 related to designated pests and diseases for any of the following purposes:

(1) Responding to, managing, and controlling the effects of the spread of glassy-winged sharpshooter and other designated pests and diseases that attack table grape plants.

(2) Collecting and disseminating to table grape growers in the district relevant information and scientific studies concerning the pest or pests.

(3) Charting and determining the extent and location of any Pierce's disease infestations and infestations of other designated pests and diseases.

(4) Reimbursing the county or counties in which the district is located for expenses incurred in connection with providing services under this article that are not otherwise reimbursed.

(c) (1) The annual assessment shall not exceed fifteen dollars (\$15) per planted acre.

(2) The maximum annual assessment shall be established in accordance with the voting requirements of Articles XIII C and XIII D of the California Constitution, as incorporated by Proposition 218 of 1996, as provided for in Section 6047.100.



(3) The board shall annually establish the assessment which shall not exceed the maximum annual assessment specified in paragraph (1), except as otherwise specified in this section.

(d) An annual assessment greater than the amount provided for in this section may not be charged unless a greater assessment is approved by eligible owners in accordance with the voting requirements of Articles XIII C and XIII D of the California Constitution, as incorporated by Proposition 218 of 1996, as provided for in Section 6047.100.

(e) The board of supervisors shall cause to be prepared and filed with the clerk of the board of supervisors a written report that contains all of the following information:

(1) A description of each parcel of property proposed to be subject to the assessment.

(2) The amount of the assessment of each parcel for the initial fiscal year.

(3) The maximum amount of the assessment that may be levied for each parcel during any fiscal year.

(4) The duration of the assessment.

(5) The basis of the assessment.

(6) The schedule of the assessment.

(7) A description specifying the requirements for written and oral protests, and the protest threshold necessary for requiring abandonment of the proposed assessment pursuant to subdivision (f).

(f) Unless otherwise excluded, the assessment shall be levied on each parcel within the boundaries of the district, zone, or area of benefit.

(g) (1) The board of supervisors shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

(2) In addition, the mailed notice shall include the name of the district, the return address of the sender, the amount of the assessment for the initial fiscal year, the maximum amount of the assessment that may be levied during any fiscal year and the name and telephone number of the person designated by the board of supervisors to answer inquiries regarding the protest proceedings.

SEC. 21. Section 6047.101 of the Food and Agricultural Code is amended to read:

6047.101. The revenue from the assessments imposed pursuant to this article by the district are trust funds and shall be encumbered only for the purposes for which the district is formed and for the benefit of the acreage assessed. The district shall expend the minimum amount necessary for overhead and other administrative costs. No district funds shall be donated, loaned, or transferred to any other local agency or to the state for any purpose, except for the implementation of the duties of



the district, set forth under this article, as determined to be necessary by the district board.

SEC. 22. Section 6047.105 of the Food and Agricultural Code is amended to read:

6047.105. Acreage devoted exclusively to the growing of table grapes within a tract of land outside the district, but in the county in which the district is located, may be annexed to the district in the same manner provided in this article for the formation of the district.

SEC. 23. Section 6047.109 of the Food and Agricultural Code is amended to read:

6047.109. If the board of supervisors determines that consolidation is feasible and in the best interests of the table grape acreage owners of the respective districts, it shall, by resolution duly adopted, declare the districts consolidated into one district, giving the consolidated district a name that includes the term “consolidated.” Certified copies of the resolution shall be filed with the Secretary of State and with the county recorder of each county in which is located any part of the consolidated district. Upon the filing, the districts are consolidated into a single consolidated district with all the rights, privileges, and powers of a district. The consolidated district shall succeed to all the funds and other property, and is subject to all the indebtedness, bonded and otherwise, of the districts consolidated. Each district that is included in the consolidated district shall continue in existence for the purpose of representation on the board of the consolidated district, and for the purpose of levying, assessing, and collecting assessments for district purposes. The board of the consolidated district is, however, the board of each district that is included in the consolidated district.

SEC. 24. Section 6047.112 of the Food and Agricultural Code is amended to read:

6047.112. Any district that has been included in a consolidated district may withdraw from the consolidated district and be reconstituted as a separate district by filing with the board of directors of the consolidated district a petition for withdrawal that is signed by the owners of not less than a majority, by area, of table grape acreage in the district. The board of directors of the consolidated district shall send the original petition to the board of supervisors of the county in which the withdrawing district is located, and a copy of the petition to the board of supervisors of each of the other counties in which is located any part of the consolidated district. Upon receipt of a petition for withdrawal, the board of supervisors of the county in which the withdrawing district is located shall fix a time and place for hearing the petition. Notice shall be given and the hearing conducted in the same manner and with the same effect as prescribed for the formation of a district pursuant to



Sections 6047.70, 6047.71, 6047.72, 6047.73, and 6047.74. Upon withdrawal of a district, all moneys collected from the district for the use of the consolidated district, and all property purchased with these moneys, shall remain the property of the consolidated district.

SEC. 25. Section 6047.113 of the Food and Agricultural Code is amended to read:

6047.113. Upon the filing of a petition with the board of supervisors that is signed by either (1) 50 percent or more of the table grape acreage owners who own 65 percent or more of the affected acreage or by (2) 65 percent or more of the table grape acreage owners who own 50 percent or more of the affected acreage requesting the dissolution of the district, the board of supervisors shall set a time and place for hearing on the petition, which shall not be less than 20 days, or more than 40 days, after the filing of the petition.

SEC. 26. Section 6047.118 of the Food and Agricultural Code is amended to read:

6047.118. If, at the hearing, a majority of the board of supervisors does not find a compelling reason to override the owners' petition to dissolve the district, the board of supervisors shall by resolution dissolve the district.

SEC. 27. Section 6047.124 of the Food and Agricultural Code is amended to read:

6047.124. Owners of wine grapes and raisin grapes and any other agricultural commodities may petition to become subject to any district established pursuant to this article. The petition shall adhere to all the requirements of this article and shall require the approval of the board of directors of the affected district. All provisions of this article are hereby incorporated in this section and are applicable to owners who become subject to a district established pursuant to this article as though set forth in full in this section unless a provision in this article expressly states that it is not applicable to this section.

SEC. 28. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The spread of the glassy-winged sharpshooter and Pierce's disease, and other designated pests and diseases, threatens the economic viability of the table grape industry. Because the immediate establishment of a pest control district is necessary to avoid severe economic loss, it is necessary for this act to take effect immediately.

